

## LEGISLATIVE MINUTES

### MARLBORO TOWNSHIP COUNCIL MEETING

December 17, 2009

The Marlboro Township Council held its regularly scheduled meeting on December 17, 2009 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Rosenthal opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this regularly scheduled meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 2, 2009; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building posted on the Marlboro Township Website, and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Cantor (via skype), Council Vice President LaRocca, Councilwoman Marder, Councilwoman Tragni and Council President Rosenthal. Councilwoman-elect Carol Mazzola and Councilman-elect Scott Metzger were also present.

Also present were: Mayor Jonathan L. Hornik, Jonathan Williams, Esq., Business Administrator Alayne Shepler, Municipal Clerk Alida Manco and Deputy Clerk Deborah Usalowicz.

Councilwoman Marder moved that the minutes of November 12, 2009 be approved. This motion was seconded by Council Vice President LaRocca and the minutes were passed on a roll call vote of 4 - 0 in favor with Councilman Cantor abstaining.

Councilman Cantor left skype at 11:15pm.

Regarding Item #8 (DISCUSSION/ACTION - Res. #2009-438 - Waiver of Distance Requirement for Plenary Retail Consumption License - Modern Star - 480 Route 9 North). Route 9 Realty, LLC Attorney Jonathan M. Heilbrunn, Esq. and Architect and Planner David Minnow were present for discussion. After discussion, the following Res. # 2009-438 (Waiver of Distance Requirement for Plenary Retail Consumption License - Modern Star - 480 Route 9 North) was introduced by reference, offered by Councilwoman Tragni, seconded by Council President Rosenthal and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-438

A RESOLUTION WAIVING THE DISTANCE RESTRICTION SET FORTH  
IN MARLBORO TOWNSHIP CODE SECTION 42-2(A) AS AUTHORIZED  
BY SECTION 42-2(B) OF THE CODE TO PERMIT PLENARY RETAIL  
CONSUMPTION LIQUOR LICENSE #1328-33-020-001 TO BE LOCATED  
AT 480 ROUTE 9 NORTH IN MARLBORO TOWNSHIP, UPON THE  
SATISFACTION OF ALL LEGAL REQUIREMENTS FOR  
THE TRANSFER OF SAID LICENSE

WHEREAS, Section 42-2(A) of the Code of the Township of Marlboro (the Code) provides that no plenary retail license shall be issued for premises within 600 feet of any other plenary retail license premises; and

WHEREAS, Section 42-2(B) of the Code permits the Township Council of the Township of Marlboro, in its reasonable discretion, to waive the distance restriction set forth in Section 42-2(A) if the applicant has established to the satisfaction of the Township Council that such waiver will not adversely impact on the surrounding area and the public health, safety and welfare; and

WHEREAS, Section 42-2(B) of the Code requires that the Township Council consider and make findings with respect to each of the following:

(1) Whether the location of an additional facility in an area will have an adverse impact on adjacent residential areas.

(2) Whether the proposed location is an area where patrons of licensed facilities tend to congregate and/or consume alcoholic beverages on the adjacent streets, sidewalks and properties and whether the proposed facility is of such a type that it may be expected that its patrons may engage in similar inappropriate behavior.

(3) The location of any premises licensed for plenary retail distribution in proximity to the proposed facility.

(4) Whether the proposed facility and existing licensed facilities are predominantly designed for use as a tavern, restaurant, hotel or entertainment facility.

(5) Whether there is any dominant commercial or recreational theme in the area that would be enhanced by the presence of the proposed facility.

(6) Whether the proposed facility would enhance or facilitate a redevelopment project.

(7) Any factors which the Township Council deems critical to its decision to grant or deny an application for waiver; and

WHEREAS, the Township Council has reviewed the letter dated November 12, 2009 from Jonathan M. Heilbrunn, Esq., attorney for Route 9 Realty, LLC, the contract purchaser of 480 Route 9 North; and

WHEREAS, Modern Star, LLC, was granted plenary retail liquor license #1328-33-020-001 (the "License") by the Township of Marlboro pursuant to Resolution #2009-237, and Modern Star, LLC and Route 9 Realty, LLC share the same principal, Igor Maller, who intends to transfer the License which is currently "pocketed" to 480 Route 9 North, if the Township Council grants a waiver of the distance restriction; and

WHEREAS, the Township Council has considered the application by Mr. Heilbrunn which has been supported by the testimony of David Minno, an architect and planner, in connection with the seven factors enumerated in Section 42-2(B) of the Code and has heard all persons who wish to be heard in connection with this application.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that the following findings are made pursuant to Section 42-2(B) of the Code:

1. There will be no adverse impacts upon adjacent residential areas as a result of the License being transferred to 480 Route 9 North in Marlboro Township.
2. The proposed location, 480 Route 9 North, is not an area where patrons of licensed facilities tend to congregate and/or consume alcoholic beverages on adjacent streets,

sidewalks and properties, nor is the proposed facility, which is proposed as a multi-use facility that would include an ice-skating facility, bowling facility, sports bar and restaurant likely to be a place where patrons will tend to congregate or consume alcoholic beverages on adjacent streets, sidewalks and properties.

3. The nearest licensed premises, Pino's Restaurant is located at 448 Route 9 North, which is less than 600 feet from the 480 Route 9 North.
4. Pino's Restaurant is a restaurant and catering facility consisting of a banquet room, bar, dining room and lounge that serves coffee and dessert in a less formal setting than presented in the dining room, while the proposed facility is an indoor recreational multi-use facility that is described to include an indoor ice-skating facility, bowling facility, sports bar and restaurant.
5. The Route 9 community commercial zone would be enhanced by the addition of this permitted facility at 480 Route 9 North.
6. This proposed facility does not enhance or facilitate a redevelopment project.
7. Allowing this License to be placed at the proposed facility at 480 Route 9 North will create new jobs and economic growth in Marlboro Township, which are goals of the Marlboro Economic Development Committee's "Open for Business" and "Shop Marlboro" campaigns, while the indoor recreational opportunities presented by this proposal will provide another venue for leisure-time activities in Marlboro Township.

BE IT FURTHER RESOLVED that based upon the foregoing findings, that the Township Council hereby waives the distance restriction set forth in Section 42-2(A) finding that such waiver will not adversely impact on the surrounding area and the public health, safety and welfare.

BE IT FURTHER RESOLVED that the aforesaid waiver shall not constitute an approval of either a person to person or place to place transfer of the License which shall require separate application(s) and/or investigation(s) as required by applicable law.

BE IT FURTHER RESOLVED that the grant of this waiver shall apply only to License #1328-33-020-001.

BE IT FURTHER RESOLVED that a certified copy of this Resolution and notice shall be provided to each of the following:

- a. Jonathan M. Heilbrunn, Esq.
- b. Mayor Jonathan Hornik
- c. Township Administrator
- d. Township Clerk
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-36 (Amend Chapter 84 - Permitted Uses C-2 Zone). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-439/Ord. # 2009-36 (Amend Chapter 84 - Permitted Uses C-2 Zone) was introduced by reference, offered by Council Vice President LaRocca, seconded by Council President Rosenthal and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-439

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2009-36

AN ORDINANCE AMENDING CHAPTER 84, "LAND USE DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS", SECTION 84-51, "C-2 NEIGHBORHOOD COMMERCIAL DISTRICT", SUB-SECTION 84-51(A), "PERMITTED USES", OF THE CODE OF THE TOWNSHIP OF MARLBORO TO REQUIRE COMMERCIAL EDUCATIONAL USES TO MEET PARKING RECOMMENDATIONS OF THE ITE PARKING MANUAL

which was introduced on November 12, 2009, public hearing held December 17, 2009, be adopted on second and final reading this 17th day of December, 2009.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-37 (Amend Chapter 84 - Permitted Uses C-3 Zone). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-440/Ord. # 2009-37 (Amend Chapter 84 - Permitted Uses C-3 Zone) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Marder and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-440

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2009-37

AN ORDINANCE AMENDING CHAPTER 84, "LAND USE DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS", SECTION 84-52, "C-3 COMMUNITY COMMERCIAL DISTRICT", SUB-SECTION 84-52(A), "PERMITTED USES", OF THE CODE OF THE TOWNSHIP OF MARLBORO TO REQUIRE ASSEMBLY HALLS, THEATERS, BOWLING ALLEYS AND OTHER SIMILAR COMMERCIAL RECREATIONAL ACTIVITIES IN THE C-3 COMMUNITY COMMERCIAL DISTRICT TO MEET THE PARKING RECOMMENDATIONS OF THE ITE PARKING GENERATION MANUAL

which was introduced on November 12, 2009, public hearing held December 17, 2009, be adopted on second and final reading this 17th day of December, 2009.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-38 (Amend Chapter 84 - Permitted Uses C-4 Zone). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-441/Ord. # 2009-38 (Amend Chapter 84 - Permitted Uses C-4 Zone) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Tragni and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-441

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2009-38

AN ORDINANCE AMENDING CHAPTER 84, "LAND USE DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS", SECTION 84-53, "C-4 REGIONAL COMMERCIAL DISTRICT", SUB-SECTION 84-53(A), "PERMITTED USES", OF THE CODE OF THE TOWNSHIP OF MARLBORO TO REQUIRE ASSEMBLY HALLS, THEATERS, BOWLING ALLEYS AND OTHER SIMILAR

COMMERCIAL RECREATIONAL ACTIVITIES IN THE C-4 REGIONAL  
COMMERCIAL DISTRICT TO MEET THE PARKING RECOMMENDATIONS OF  
THE ITE PARKING GENERATION MANUAL

which was introduced on November 12, 2009, public hearing held December 17, 2009, be adopted on second and final reading this 17th day of December, 2009.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-39 (Amend Chapter 84 - Permitted Uses L I Zone). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-442/Ord.# 2009-39 (Amend Chapter 84 - Permitted Uses L I Zone) was introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Tragni and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-442

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2009-39

AN ORDINANCE AMENDING CHAPTER 84, "LAND USE DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS", SECTION 84-55, "LI LIGHT INDUSTRIAL ZONE DISTRICT", SUB-SECTION 84-55(A), "PERMITTED USES", OF THE CODE OF THE TOWNSHIP OF MARLBORO TO INCLUDE COMMERCIAL RECREATIONAL USES

which was introduced on November 12, 2009, public hearing held December 17, 2009, be adopted on second and final reading this 17th day of December, 2009.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-40 (Amend Chapter 84 - Permitted Uses IOR Zone). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-443/Ord. # 2009-40 (Amend Chapter 84 - Permitted Uses IOR Zone) was

introduced by reference, offered by Council Vice President LaRocca, seconded by Councilwoman Tragni and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-443

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2009-40

AN ORDINANCE AMENDING CHAPTER 84, "LAND USE DEVELOPMENT REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND REGULATIONS", SECTION 84-54.1, "IOR INDUSTRIAL OFFICE RESEARCH DISTRICT", SUB-SECTION 84-54.1(A), "PERMITTED USES", OF THE CODE OF THE TOWNSHIP OF MARLBORO TO REQUIRE ASSEMBLY HALLS, THEATERS, BOWLING ALLEYS AND OTHER SIMILAR COMMERCIAL RECREATIONAL ACTIVITIES IN THE IOR INDUSTRIAL OFFICE RESEARCH DISTRICT TO MEET THE PARKING RECOMMENDATIONS OF THE ITE PARKING GENERATION MANUAL

which was introduced on November 12, 2009, public hearing held December 17, 2009, be adopted on second and final reading this 17th day of December, 2009.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-41 (Amend Chapter 84 - Various Sections). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-444/Ord. # 2009-41 (Amend Chapter 84 - Various Sections) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilwoman Marder and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-444

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2009-41

AN ORDINANCE AMENDING CHAPTER 84, "LAND USE DEVELOPMENT REGULATIONS", ARTICLE II, "LAND USE PROCEDURES", SECTION 84-8, "ZONING BOARD OF ADJUSTMENT", SUB-SECTION 84-8(E) (3)



"TIME FOR APPROVAL" TO AMEND REFERENCES TO CHECKLISTS  
AND TO ESTABLISH A NEW SUB-SECTION 84-8(J) "ZONING BOARD  
APPLICATION CHECKLISTS" TO INCORPORATE CHECKLISTS FOR  
BULK VARIANCES, USE VARIANCES, AND INTERPRETATIONS  
OF THE CODE BY THE ZONING BOARD OR APPEAL OF  
THE ZONING OFFICER'S DECISION

which was introduced on November 12, 2009, public hearing held December 17, 2009, be adopted on second and final reading this 17th day of December, 2009.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

Council President Rosenthal opened the Public Hearing on Ordinance # 2009-42 (Amend Chapter 84 - Section 60 - Off Street parking Regulations). As there was no one who wished to speak, the Public Hearing was closed. The following Res. # 2009-445/Ord. # 2009-42 (Amend Chapter 84 - Section 60 - Off Street parking Regulations) was introduced by reference, offered by Councilwoman Tragni, seconded by Councilwoman Marder and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-445

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2009-42

AN ORDINANCE AMENDING CHAPTER 84, "LAND USE DEVELOPMENT  
REGULATIONS", ARTICLE III, "ZONING: STANDARDS AND  
REGULATIONS", SECTION 84-60, "OFF-STREET PARKING  
REGULATIONS", SUB-SECTION 84-60(F) "REQUIRED OFF-STREET  
PARKING SPACES", OF THE CODE OF THE TOWNSHIP OF MARLBORO  
TO REQUIRE THAT CERTAIN USES MEET THE RECOMMENDATIONS OF  
THE ITE PARKING GENERATION MANUAL

which was introduced on November 12, 2009, public hearing held December 17, 2009, be adopted on second and final reading this 17th day of December, 2009.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Res. # 2009-446 (Setting Reorganization Meeting Date - January 7, 2010) was introduced by reference, offered by Council Vice President LaRocca, seconded by Council President Rosenthal and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor).

RESOLUTION # 2009-446

BE IT RESOLVED by the Township Council of the Township of Marlboro that it will hold its Reorganization Meeting on January 7, 2010 at 8 PM at the Town Hall, 1979 Township Drive, Marlboro, New Jersey 07746.

There was a brief discussion between Mayor, Council members and Township Attorney Jonathan William, Esq. on the following Resolutions: Res. #2009-432 (HDSRF Grant 88 Conover Road), Res. # 2009-449 (Authorizing Contract - Heyer Gruel - Master Plan Reexamination), Res. #2009-426 (Urging Governor and Legislature to Eliminate State Imposed Unfunded Mandates and Res. #2009-459 (Authorizing Exploration and Investigation of an alternate site for affordable housing and expenditure of sums of up to \$250,000 from the affordable housing trust fund for the purpose of investigating and determining the suitability of a proposed alternate site).

The following Resolutions were introduced by reference, offered by Council Vice President LaRocca, seconded by Council President Rosenthal and was passed on a roll call vote of 4 - 0 in favor (Absent: Cantor): Res. #2009-426 (Urging Governor and Legislature to Eliminate State Imposed Unfunded Mandates), Res. #2009-427 (Appointing Custodian of Public Records for Police Dept. and adopting PD OPRA Form), Res. #2009-428 (Adopting Marlboro Township OPRA Form), Res. #2009-429 (Approve ICLEI USA Membership to increase public awareness about causes and impacts of climate change), Res. #2009-431 (Rescinding Res. #2009-375 - Refund of Developer Fee To JP Morgan Chase), Res. #2009-432 (HDSRF Grant 88 Conover Road), Res. #2009-433 (Authorizing Hold Harmless Agreement B 270, L 83.12), Res. #2009-434 (Chapter 159 - "Drunk Driving Enforcement Fund"), Res. #2009-447 (Declaring Items Surplus - GovDeals on line auction), Res. #2009-448 (Budget Transfer), Res. #2009-449 (Authorizing Contract - Heyer Gruel - Master Plan Reexamination), Res. #2009-450 (Authorizing Agreement NJ Transit - Bus Shelter at Route 9 South and Texas Road), Res. #2009-451 (Redemption Tax Sale Certs. - Various), Res. #2009-452 (Refunds for Overpayments - Various), Res. #2009-453 (Raffle License Solomon Schechter Casino Night), Res. #2009-454 (Raffle License Solomon Schechter On premise 50/50), Res. #2009-455 (Raffle License Police Unity Bike Tour Off

premise 50/50), Res. #2009-457 (Authorizing Contract Birdsall - Energy Efficiency and Conservation Strategy Grant) and Res. #2009-458 (Purchase on State Contract - Tax Collector Software), Res. #2009-459 (Authorizing Exploration and Investigation of an alternate site for affordable housing and expenditure of sums of up to \$250,000 from the affordable housing trust fund for the purpose of investigating and determining the suitability of a proposed alternate site).

RESOLUTION # 2009-426

A RESOLUTION URGING GOVERNOR CORZINE AND THE  
NEW JERSEY LEGISLATURE TO EXPEDITIOUSLY  
ELIMINATE STATE IMPOSED UNFUNDED MANDATES

WHEREAS, Mayor Jonathan L. Hornik has brought the following information to the attention of the Township Council:

That 1995 New Jersey voters approved an amendment to the State Constitution, designated as Article VIII, Section 2, Paragraph 5 of the New Jersey Constitution, and codified in the Local Mandates Act which is found at N.J.S.A. 52:13H-1, et seq. (the "LMA"), which was enacted to restrain the State of New Jersey from imposing new unfunded programs upon counties, municipalities and school districts, (the "Local Governments") without the provision of necessary funds by the State of New Jersey.

That New Jersey Legislature established the Council on Local Mandates (the "Council") to implement the LMA by empowering the Council to review complaints from Local Governments and issue determinations as to whether new statutory or regulatory impositions issued by the State constitute "unfunded" mandates.

That pursuant to the LMA, if the Council determines that a statute or regulation is an "unfunded" mandate, such statute or regulation ceases to be mandatory and expires.

That fourteen (14) years after the voters of this state enacted changes to the New Jersey Constitution, the Council has made less than one dozen decisions and in only two (2) of such cases did the Council rule in favor of the Local Governments.

That the LMA does not empower the Council to enforce compliance with its determinations, nor do Local Governments have the right to seek redress in State Courts as to these determinations.

That the purpose of the LMA was to reduce property taxes in New Jersey and instead property taxes have nearly doubled since the enactment of the LMA, forcing New Jersey homeowners to bear a crushing burden.

That the LMA is clearly not the reform that the people of New Jersey voted for in 1995; and

WHEREAS, Mayor Jonathan L. Hornik has brought the recommendations of the New Jersey Association of Counties ("NJAC") to the attention to the Township Council of the Township of Marlboro and has recommended that the Township Council adopt a resolution expressing the intent of the Mayor and Council to join forces with other Local Governments to insist upon a complete overhaul of the Council and the LMA which has not satisfied the will of the voters for true government reform; and

WHEREAS, in connection with the overhaul of the Council, the NJAC has proposed the following:

(1) Change the appointment power to the Council because under the current law members of the Council are appointed by the Governor, members of the Legislature and the Chief Justice of the State Supreme Court, all of whom are individuals that create unfunded mandates for Local Governments.

(2) Address the flaw that allows state appointees, such as judges and prosecutors, to compel county governments to hire Court personnel and expand facilities without the prior approval from voters or their elected representatives.

3) Address the flaw that allows State officials to appeal to the Courts, while Local Governments are denied this right of appeal. Under the LMA, decisions made by the Council are ineligible for judicial review by Local Governments. Furthermore, when the Council makes a decision in favor of a Local Government, the LMA allows the State to ignore such determinations without any consequence.

4) Address the current exemptions from the LMA. This review should included a top to bottom identification of all State mandates and must require that the State repeal all outdated mandates and fund any remaining mandates; and

WHEREAS, the Township Council concurs with the recommendation of Mayor Hornik that it is in the best interests of the citizens of the Township of Marlboro to urge the elimination of state imposed

unfunded mandates and to seek a complete review and overhaul of the LMA and Council as set forth hereinabove.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Mayor and Council hereby petition for the elimination of State imposed unfunded mandates, that Mayor & Council strongly support the proposals of the New Jersey Association of Counties as set forth hereinabove to seek a complete review and overhaul of the Local Mandates Act and the Council on Local Mandates, and that Mayor and Council urge the Governor and the Legislature to address the egregious burdens imposed upon Local Governments by unfunded mandates imposed by the State; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be provided to each of the following:

- A. The Hon. Governor Jon Corzine
- B. The Hon. Senator Jennifer Beck
- C. The Hon. Assemblywoman Caroline Casagrande
- D. The Hon. Assemblyman Declan O'Scanlon
- E. County Freeholder Boards of each New Jersey County
- F. The New Jersey State League of Municipalities
- G. The Mayor and Clerk of all Monmouth County Municipalities
- H. Mayor Jonathan L. Hornik
- I. Township Business Administrator
- J. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2009-427

A RESOLUTION ADOPTING A FORM FOR USE IN REQUESTING  
GOVERNMENT RECORDS PURSUANT TO THE OPEN PUBLIC  
RECORDS ACT, N.J.S.A. 47:1A-1, ET SEQ.

WHEREAS, The Open Public Records Act ("OPRA") requires that a form be adopted for use by any person requesting access to a government record held or controlled by a public agency; and

WHEREAS, the Government Records Council has provided municipalities with a revised model form for use by records custodians; and

WHEREAS, it is the practice in Marlboro Township, that the Police Division handle requests for police records; and

WHEREAS, the Police Chief has recommended that Lieutenant Steve Mennona be designated as the records custodian for police records; and

WHEREAS, the Police Chief has recommended that the attached form be made available for use by individuals seeking records from the Marlboro Police Division.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the appointment of Lieutenant Steve Mennona as records custodian for records maintained by the Police Division is hereby approved, ratified and affirmed; and

BE IT FURTHER RESOLVED that the attached form is approved for use by the Marlboro Police Division when records requests are made to the Police Division;

BE IT FURTHER RESOLVED THAT, a certified copy of this Resolution shall be provided to each of the following:

- a. Marlboro Police Chief
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator
- d. Marlboro Township Clerk
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2009-428

A RESOLUTION ADOPTING A FORM FOR USE IN REQUESTING  
GOVERNMENT RECORDS PURSUANT TO THE OPEN PUBLIC  
RECORDS ACT, N.J.S.A. 47:1A-1, ET SEQ.

WHEREAS, The Open Public Records Act ("OPRA") requires that a form be adopted for use by any person requesting access to a government record held or controlled by a public agency; and

WHEREAS, the Government Records Council has provided municipalities with a revised model form for use by records custodians; and

WHEREAS, the Township Clerk serves as the Custodian of Records for the Township, except that the Police Division handles requests for police records; and

WHEREAS, the Township Clerk has recommended that the attached form be made available for use by individuals seeking records from the Township of Marlboro, except for requests for police records.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that the attached form is approved for use by the Township Clerk in connection with records requests made to the Township, except for requests for police records; and

BE IT FURTHER RESOLVED THAT, a certified copy of this Resolution shall be provided to each of the following:

- a. Marlboro Township Clerk
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2009-429

WHEREAS, scientific consensus has developed that carbon dioxide (CO<sub>2</sub>) and other greenhouse gases released into the atmosphere have a profound effect on the Earth's climate; and

WHEREAS, the 2007 Fourth Assessment Report from the Intergovernmental Panel on Climate Change (IPCC) states that it is very likely that most of the observed increases in globally averaged temperatures since the mid-20<sup>th</sup> century are due to human-induced greenhouse gas emissions; and

WHEREAS, in 2006 the U.S. National Climatic Data Center confirmed clear evidence of human influences on climate due to changes in greenhouse gases; and

WHEREAS, the U.S. Conference of Mayors endorsed the 2005 U.S. Mayor's Climate Protection Agreement initiated by Seattle Mayor Nickels and signed by more than 900 mayors in the United States as of March 2009; and

WHEREAS, the Urban Environmental Accords adopted by local government delegates during UN World Environment Day 2005 call for reduced emissions through energy efficiency, land use and transportation planning, waste reduction, and wiser energy management; and

WHEREAS, in 2003 the American Geophysical Union adopted a statement noting that human activities are increasingly altering the

Earth's climate and that natural influences cannot explain the rapid increase in near-surface temperatures observed during the second half of the 20<sup>th</sup> century; and

WHEREAS, in 2001, at the request of the Administration, the National Academy of Sciences (NAS) reviewed and declared global warming a real problem likely due to human activities; and

WHEREAS the 2000 U.S. Global Change Research Program's (USGCRP) First National indicated that global warming has begun; and

WHEREAS, 162 countries including the United States pledged under the United Nations Framework Convention on Climate Change to reduce their greenhouse gas emissions; and

WHEREAS, energy consumption, specifically the burning of fossil fuels, accounts for more than 80% of U.S. greenhouse gas emissions; and

WHEREAS, local government actions taken to reduce greenhouse gas emissions and increase energy efficiency provide multiple local benefits by decreasing air pollution, creating jobs, reducing energy expenditures, and saving money for the local government, its business, and its residents; and

WHEREAS, ICLEI- Local Governments for Sustainability is a membership association of local governments committed to advancing climate protection and sustainable development,

NOW THEREFORE, BE IT RESOLVED that the Township of Marlboro County of Monmouth, State of New Jersey will join ICLEI as a Full Member and pledges to take a leadership role in promoting public awareness about the causes and impacts of climate change.

BE IT FURTHER RESOLVED, that the Township of Marlboro County of Monmouth State of New Jersey will undertake ICLEI's five milestones to reduce both greenhouse gas and air pollution emissions throughout the community, and specifically;

- . Conduct a greenhouse gas emission inventory and forecast to determine the source and quantity of greenhouse gas emissions in the jurisdiction;
- . Establish a greenhouse gas emissions reduction target; which when implemented will meet local greenhouse gas reduction target;



- . Implement the action plan; and
- . Monitor and report progress; and

BE IT FURTHER RESOLVED, that the Township of Marlboro County of Monmouth State of New Jersey requests assistance from ICLEI as it progresses through these milestones.

RESOLUTION # 2009-431

A RESOLUTION RESCINDING RESOLUTION #2009-375 WHICH AUTHORIZED THE REFUND OF NON-RESIDENTIAL DEVELOPMENT FEES TO JP MORGAN CHASE BANK, N.A. PURSUANT TO THE PROVISIONS OF N.J.S.A. 40:55D-8.6

WHEREAS, Resolution #2009-375 authorized the refund of a non-residential development fee to JP Morgan Chase Bank, N.A.; and

WHEREAS, subsequent to the adoption of this resolution, the Township Attorney was contacted by the attorneys for JP Morgan Chase (the "Developer") who indicated that the request for a refund of non-residential development fees pursuant N.J.S.A. 40:55D-8.6 which was made on October 1, 2009 by Gibbons, P.C. on behalf of the Developer was requested in error; and

WHEREAS, the Township Attorney concurs that the October 1, 2009 request was made in error and that the Developer is not entitled to a refund pursuant to N.J.S.A. 40:55D-8.6 because the Developer paid a 2% developer fee, not the 2.5% developer fee that was authorized for refund pursuant to N.J.S.A. 40:55D-8.6.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that Resolution #2009-375 which authorized the refund of Non-Residential Development Fees in the amount of Twenty-Three Thousand Seven Hundred Three Dollars and 33/100 (\$23,703.34) to the Developer known as JP Morgan Chase Bank, N.A., for the Non-Residential Development known as "Chase Bank" on the Property known as Block 268, Lots 55-57, 59-62, 65 & 80, on the official tax map of the Township of Marlboro pursuant to the provisions of N.J.S.A. 40:55D-8.6 be and is hereby rescinded.

BE IT FURTHER RESOLVED THAT, a certified copy of this Resolution shall be provided to each of the following:

- a. JP Morgan Chase Bank, N.A. c/o Gibbons, P.C. One Gateway Center, Newark, NJ 07102-5310, Attn: Michael Miceli, Esq.
- b. Mayor Jonathan Hornik
- c. Marlboro Township Administrator

- d. Marlboro Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2009-432

A RESOLUTION AUTHORIZING THE TOWNSHIP TO SUBMIT AN APPLICATION TO THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR FUNDS FROM THE HAZARDOUS DISCHARGE SITE REMEDIATION FUND TO PERFORM AN ENVIRONMENTAL ASSESSMENT AND INVESTIGATION AT THE FORMER STATE CORRECTIONAL FACILITY SITE LOCATED ON BLOCK 157, LOT 34.01, (88 CONOVER ROAD), MARLBORO TOWNSHIP, MONMOUTH COUNTY, NEW JERSEY

WHEREAS, the New Jersey Department of Environmental Protection ("NJDEP") established the Hazardous Discharge Site Remediation Fund ("HDSRF") to provide financial assistance to municipalities, businesses and homeowners for the investigation and/or remediation of suspected or known discharges of a hazardous substance; and

WHEREAS, the Township of Marlboro intends to acquire the sites known as the State Correctional Facility, located on property known as Block 157, Lot 34.01, Marlboro Township, Monmouth County, New Jersey the "Site"), by voluntary conveyance with funds acquired from the State of New Jersey Green Acres Open Space Program for open space and recreational purposes; and

WHEREAS, Township Council of the Township of Marlboro has determined that there has been, or it suspects that there has been, a discharge of hazardous substances or hazardous waste at the Site; and

WHEREAS, the Township of Marlboro desires to apply to the NJDEP for funding from the HDSRF for the assessment and investigation of the Site in order to determine the extent or the existence of any hazardous substance or hazardous waste thereupon.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Township of Marlboro is committed to establishing the Site for open space and recreational purposes and finds that a realistic opportunity exists for the establishment of the Site for such purposes within a three (3) year period after the completion of the remediation of the Site; and

BE IT FURTHER RESOLVED, that the Township of Marlboro is hereby authorized to submit an Hazardous Discharge Site Remediation Fund application to the New Jersey Department of Environmental Protection

to conduct environmental assessment and investigations at the Site;  
and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. New Jersey Department of Environmental Protection
- b. ICON Engineering, a Division of CME Associates
- c. Mayor Jonathan L. Hornik
- d. Township Administrator
- e. Township Chief Financial Officer
- f. Director of Economic Development
- g. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2009-433

A RESOLUTION AUTHORIZING A HOLD HARMLESS AND INDEMNIFICATION AGREEMENT REGARDING THE CONSTRUCTION OF LANDSCAPE IMPROVEMENTS OVER A PORTION OF PROPERTY KNOWN AS BLOCK 270, LOT 83.12, TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, STATE OF NEW JERSEY, SUBJECT TO A TOWNSHIP HELD DRAINAGE AND CONSERVATION EASEMENT

WHEREAS, the Township of Marlboro ("Township") has the right, title and interest in and to a drainage easement and a conservation easement on a portion of property known as Block 270, Lot 83.12 on the official tax map of the Township of Marlboro, Monmouth County, New Jersey; and

WHEREAS, the owners of the Property upon which the above referenced drainage and conservation easements are contained, desire to construct certain landscape improvements with the area of the easements; and

WHEREAS, the Township is willing to allow such use, subject to a Hold Harmless and Indemnification Agreement being executed by the owners of Block 270, Lot 83.12, for the installation, use and maintenance of such landscape improvements within the area of the above-described easements.

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey that the Mayor and Clerk are authorized to execute the attached Hold Harmless and Indemnification Agreement regarding the installation, maintenance and use of landscape improvements on a portion of the drainage and conservation easements located on a portion of Block 270, Lot 83.12; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution and notice shall be provided to each of the following:

- a. Ibrahim and Therese Mouakkar  
c/o George Barrood, Esq.
- b. Mayor Jonathan Hornik
- c. Township Administrator
- d. Township Engineer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2009-434

RESOLUTION REQUESTING APPROVAL OF ITEMS OF  
REVENUE AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

Section 1

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2009 in the sum of \$4,629.47, which item is now available as a revenue from the "Drunk Driving Enforcement Fund", and

Section 2

BE IT FURTHER RESOLVED that the sum of \$4,629.47 is hereby appropriated under the caption "Drunk Driving Enforcement Fund".

RESOLUTION # 2009-447

A RESOLUTION AUTHORIZING THE SALE OF SURPLUS  
MUNICIPAL PERSONAL PROPERTY NOT NEEDED FOR  
PUBLIC USE BY PUBLIC ON-LINE AUCTION

WHEREAS, pursuant to N.J.S.A. 40A:11-36, a municipality may, by resolution, authorize the sale of its personal property not needed for public use; and

WHEREAS, the Department of Community Affairs, Division of Local Government Services ("DCA") has issued Local Finance Notice 2008-9 ("LFN-2008-9") which permits a municipality to sell its personal property not needed for public use on-line; and

WHEREAS, LFN-2008-9 sets forth procedural guidelines regarding the use of a on-line public auction for the sale of such municipal personal property not needed for public use; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro deem that it is in the best interests of the Township of Marlboro to sell the Township's personal property not needed for public use using the on-line auction process set forth in LFN-2008-9; and

WHEREAS, govdeals.com is one of the internet based vendors approved by the DCA to carry out on-line auctions of municipal property not needed for public use.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey that:

1. The Township hereby determines that its personal property described on Exhibit "A" attached hereto and made a part hereof and entitled "Surplus Property of the Township of Marlboro" and dated December 17, 2009 is personal property no longer needed for public use by the Township of Marlboro; and
2. The Township further determines that such surplus personal property listed on Exhibit "A" shall be sold by auction on-line by govdeals.com; and
3. The sale of such surplus property listed on Exhibit "A" shall be conducted pursuant to the procedures set forth in Local Finance Notice 2008-9; and
4. The terms and conditions of the Agreement between the Township of Marlboro and govdeals.com are available for public viewing at the website of govdeals.com and on file in the Clerk's Office of the Township of Marlboro; and
5. The Mayor or Business Administrator and Township Clerk are hereby authorized to execute and witness, respectively, the On-Line Auction Agreement and any

other documents required to effectuate the sale of the Township's surplus personal property described in Exhibit "A"; and

6. The Township Clerk shall, pursuant to the terms of N.J.S.A. 40A:11-36, publish a legal newspaper advertisement informing the public as to the nature of the surplus property being sold and how to obtain more information on the internet based sale in the official newspaper of the Township of Marlboro as follows:

- a. An announcement of the auction and that the item(s) shall be sold on-line;
- b. the internet address for the sale being advertised;
- c. the date and time of the auction and a general description of the surplus personal property intended to be sold, however specific information for particular items, such as the VIN number for vehicles, is not required is not required in the newspaper advertisement; and
- d. a statement that bidders must pre-register with the approved internet based vendor and the internet address with registration information.

7. Pursuant to N.J.S.A. 40A:11-36, sales shall be held not less than seven (7) nor more than fourteen (14) days after the latest publication of the advertisement.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. govdeals.com
- b. Mayor Jonathan Hornik
- c. Business Administrator
- d. Chief Financial Officer
- e. DeCotiis, FitzPatrick, Cole & Wisler, LLP
- f. Division of Local Government Services,  
Department of Community Affairs

RESOLUTION # 2009-448

RESOLUTION AUTHORIZING BUDGET TRANSFERS  
DURING LAST TWO MONTHS OF THE FISCAL YEAR

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriation transfers during the last two (2) months of the fiscal year, when it has been determined that it is necessary to expend for any of the purposes specified in the budget an amount in excess of the sum appropriated therefore and where it has been further determined that there is an excess in any appropriation over the above the amount deemed to be necessary to fulfill the purpose of such appropriation,

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Calendar Year 2009 Municipal Budget as follow:

From:

Central Computer S&W	38,000.00
Public Works S&W	25,000.00
Gasoline OE	15,000.00
Police OE	27,000.00

To:

Recreation S&W	5,000.00	
Tax Collection S&W	38,000.00	
Assessing OE	10,000.00	
Zoning OE	15,000.00	
Engineering OE	17,000.00	
Accumulated Absence S&W	20,000.00	
Totals	105,000.00	105,000.00

RESOLUTION # 2009-449

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL  
SERVICES CONTRACT BETWEEN HEYER, GRUEL & ASSOCIATES AND  
THE TOWNSHIP OF MARLBORO FOR PLANNING SERVICES IN  
CONNECTION WITH A MASTER PLAN RE-EXAMINATION IN ACCORDANCE  
WITH N.J.S.A. 40:55D-89, ET SEQ.

WHEREAS, the Township of Marlboro is in need of professional planning services in connection with the preparation of a Master Plan Re-Examination and report in accordance with N.J.S.A. 40:55D-89, et seq., (the "Professional Services"); and

WHEREAS, the Township has requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4 et seq. and Heyer, Gruel & Associates submitted a Proposal

dated July 6, 2009 (the "Proposal") to the Marlboro Township Planning Board detailing the Professional Service that would be provided in connection with the Master Plan Re-Examination for an amount not to exceed \$28,000.00; and

WHEREAS, the Township of Marlboro and Heyer, Gruel & Associates have previously entered into a Professional Services Contract, awarded under a non-fair and open process and seeks to amend such Contract to expand the scope of services to include the above described and defined Professional Services in accordance with the scope of services detailed in the Proposal, with the total fee for the additional Professional Services as described herein not to exceed \$28,000.00; and

WHEREAS, the value of the Contract will exceed \$17,500.00 in the aggregate and the Chief Financial Officer has certified that funds are available for this purpose from Account #9-01-070-286; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the municipality to hire Heyer, Gruel & Associates to provide the required Professional Services described and defined hereinabove; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefor, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, Heyer, Gruel & Associates has previously completed and submitted a Business Entity Disclosure Certificate certifying that Heyer, Gruel & Associates has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the Professional Services Contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, that the Mayor is hereby authorized to execute a Professional Services Contract Amendment, in a form legally acceptable to the Township Attorney, between Heyer,



Gruel & Associates and the Township of Marlboro to provide the above described and defined Professional Services, pursuant to a non-fair and open process; and

BE IT FURTHER RESOLVED, that this Professional Services Contract Amendment is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide that the total fee for the additional Professional Services as described in the Proposal shall not to exceed \$28,000.00; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for the Professional Services Contract Amendment, which is attached hereto, and that sufficient funds are available for said contract from Account Number 9-01-070-286; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract Amendment and this Resolution shall be made available for public inspection in the Township Clerk's Office; and

BE IT FURTHER RESOLVED, notice of award of this Professional Services Contract Amendment shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. Heyer, Gruel & Associates
- b. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP
- e. Township Planning Board
- f. Township Zoning Board

RESOLUTION # 2009-450

A RESOLUTION REQUESTING THE INSTALLATION OF A BUS SHELTER  
FOR THE BUS STOP ESTABLISHED AT ROUTE 9 SOUTHBOUND AT  
TEXAS ROAD, FAR SIDE, TOWNSHIP OF MARLBORO, NEW JERSEY

WHEREAS, New Jersey Transit Corporation has the funds for the purchase and installation of bus shelters throughout the State of New Jersey; and

WHEREAS, the governing body of a municipality in New Jersey may apply to and enter into an agreement with New Jersey Transit Corporation for the purchase, installation and maintenance of bus shelters at legally designated bus stops; and

WHEREAS, the Township of Marlboro, in the interest of promoting public transportation, conservation of energy, traffic safety and for the convenience of the public, endorses the concept of providing bus shelters within its jurisdiction; and

WHEREAS, there exists one (1) legally established bus stop at Route 9 (southbound) at Texas Road, far side; and

WHEREAS, the Township Council of the Township of Marlboro desires to enter into an agreement with New Jersey Transit concerning the purchase, installation and maintenance of one bus shelter at this bus stop.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, Monmouth County, New Jersey, that application is hereby made to the New Jersey Transit Corporation for the purchase, installation and maintenance of one (1) bus shelter to be placed at the bus stop located on Route 9 (southbound) at Texas Road, far side, Marlboro Township, Monmouth County, New Jersey; and

BE IT FURTHER RESOLVED, that the Mayor and Clerk are hereby authorized to execute and witness, respectively, an Agreement between the Township of Marlboro and the New Jersey Transit Corporation for the purchase, installation and maintenance of such bus shelter, in a form substantially similar to that attached hereto; and

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized and directed to send copies of this resolution to the following:

1. New Jersey Department of Transportation  
Attn: Michael Moran, Regional Maintenance Engineer
2. New Jersey Transit - Attn: Daniel O'Gorman
3. Mayor Jonathan L. Hornik
4. Business Administrator
5. The Chief of the Police
6. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2009-451

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$5,996.36

as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$5,996.36 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
09-75 4 Peach Tree Ct.	195 6	U.S. Bank Corporate Trust Services Tax Lien Service Group 2 Liberty Place 50 South 16 <sup>th</sup> St. Suite 1950 Philadelphia, PA 19102	\$917.04
09-56 528 Tivoli Ct.	176 7 C0528	U.S. Bank Corporate Trust Service Group 2 Liberty Place 50 South 16 <sup>th</sup> St. Suite 1950 Philadelphia, PA 19102	249.27
09-90 23 Aspen Ave.	288 29 C0023	U.S. Bank Corporate Trust Service Group 2 Liberty Place 50 South 16 <sup>th</sup> St. Suite 1950 Philadelphia, PA 19102	665.96
09-106 14 Livingston Ct.	360 25.16	Daniel Erez 6776 Deerwood Court San Diego, CA 92120	747.73
09-67 565 Manchester Pl.	178 2 C0565	Nithi Services, LLC 20 Almadera Drive Wayne, NJ 07470	422.60
09-94 11 Lindsay Dr.	290 7	Nithi Services, LLC 20 Almadera Drive Wayne, NJ 07470	862.33

09-113	412.03	9	US Bank Corp.Trust	952.33
18 Warbler Rd.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> St.-Ste.	1950
			Philadelphia, PA	19102
09-89	286	20	US Bank Corp. Trust	394.16
11 Longfellow Terr.			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> St.-Ste.	1950
			Philadelphia, PA	19102
09-50	150	6	US Bank Corp.Trust	784.93
35 Tennent Road			Services	
			Tax Lien Service Group	
			2 Liberty Place	
			50 South 16 <sup>th</sup> St.-Ste.	1950
			Philadelphia, PA	19102
08-61	349	10	The Approved Realty	1,587.35
2 Eaton Ct.			Group, LLC	
			60 Chambersbridge Road, Ste. 4	
			Lakewood, NJ 08701	
			TOTAL:	\$5,996.36

RESOLUTION # 2009-452

WHEREAS, the attached list in the amount of \$9,782.79 known as Schedule "A", is comprised of amounts representing overpayments for 2009 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
101.01	8	Robbins, Leigh M. & Venetia	\$3,718.69
		330 Provincial Drive	
		Morganville, NJ 07751	

390	25	Ruditsky, David & Jenna Shapiro	2,266.19
		14 Pheasant Drive	
		Marlboro, NJ 07746	
288	29	C0444 Lerner, Naum & Lyudmila	845.00
444		Bayberry Ct. 300 Winston Drive, #904	
		Cliffside Park, NJ 07010	
372	1	Yermakov, Vadim & Angelina	2,952.91
		17 Harness Lane	
		Marlboro, NJ 07746	
TOTAL:			<u>\$9,782.79</u>

RESOLUTION # 2009-453

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License RL: 31-09/10 be and it is hereby granted to Solomon Schechter Day School of Greater Monmouth County, 22 School Road East, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle (Non-draw - Casino Night) will be held on February 10, 2010 from 7PM to 12AM at the Marlboro Jewish Center, 103 School Road West, Marlboro, New Jersey 07746.

RESOLUTION # 2009-454

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License RL: 32-09/10 be and it is hereby granted to Solomon Schechter Day School of Greater Monmouth County, 22 School Road East, Marlboro, New Jersey 07746.

BE IT FURTHER RESOLVED that said Raffle (On premise 50/50) will be held on February 10, 2010 from 7PM to 12AM at the Marlboro Jewish Center, 103 School Road West, Marlboro, New Jersey 07746.

RESOLUTION # 2009-455

BE IT RESOLVED by the Township Council of the Township of Marlboro that a Raffle License # RL: 33-09/10 (Off Premise 50/50) be and it is hereby granted to Police Unity Bike Tour Inc, P. O. Box 528, Florham Park, NJ 07932.

BE IT FURTHER RESOLVED that the raffle will take place on April 15, 2010 from 7 - 10 PM, at Damon's Grill, 180 Route 9 North, Englishtown, NJ 07726.

RESOLUTION # 2009-457

A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES CONTRACT  
BETWEEN BIRDSALL ENGINEERING, INC. AND THE TOWNSHIP OF  
MARLBORO FOR THE PROVISION OF ENGINEERING SERVICES IN  
CONNECTION WITH THE PREPARATION OF AN ENERGY EFFICIENCY  
AND CONSERVATION STRATEGY

WHEREAS, the Township of Marlboro is in need of professional services in connection with the provision of engineering services consisting of the preparation of an Energy Efficiency and Conservation Strategy(the "Professional Services"); and

WHEREAS, the Township requested proposals through a non-fair and open process pursuant to the provisions of N.J.S.A. 19:44A-20.4 et seq.; and

WHEREAS, the Township of Marlboro and Birdsall Engineering, Inc. have previously entered into a Professional Services Contract, awarded under a non-fair and open process and seeks to enter into a professional services contract to include the above Professional Services for a fee not to exceed \$17,000.00, such additional Professional Services being described and set forth in Birdsall's written proposal dated November 11, 2009 (the "Proposal"), such Proposal being attached hereto and made a part hereof; and

WHEREAS, the value of the contracts awarded to Birdsall Engineering exceed \$17,500.00 in the aggregate; and

WHEREAS, funds are available in Account Number 9-01-060-299 (\$17,000) and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the services to be provided are "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that

notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, Birdsall has previously completed and submitted a Business Entity Disclosure Certificate certifying that Birdsall Engineering, Inc. has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Section 26 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that the Mayor is hereby authorized to execute a Professional Services Contract in a form legally acceptable to the Township Attorney with Birdsall Engineering, Inc. to provide the Professional Services in accordance with the Proposal, pursuant to a non-fair and open process; and

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$17,000.00 for such the Professional Services described in the Proposal; and

BE IT FURTHER RESOLVED, that the Chief Financial Officer has executed a Certification of Funds for the contract, which is attached hereto, and that sufficient funds are available for said Contract from Account Number 9-01-060-299 (\$17,000); and

BE IT FURTHER RESOLVED, that the Business Disclosure Entity Certification shall be placed on file with this Resolution;

BE IT FURTHER RESOLVED, that a copy of the Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Engineering, Inc.
- b. Township Administrator
- c. Township Chief Financial Officer
- d. DeCotiis, FitzPatrick, Cole & Wisler, LLP

RESOLUTION # 2009-458

RESOLUTION AUTHORIZING THE PURCHASE OF TAX  
COLLECTION SOFTWARE FOR THE TOWNSHIP OF  
MARLBORO STATE CONTRACT #A72727

WHEREAS, the Marlboro Township Administration Department has recommended that the Township purchase tax collection software from Municipal Software Inc., Nine South Ninth Street, Stroudsburg, PA 18360 under State Contract #A72727 not to exceed \$16,000; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12, a municipality may, without advertising for bids, purchase goods under any contract for such goods entered into on behalf of the State by the Division of Purchase and Property in the Department of Treasury; and

WHEREAS, it is in the interest of the citizens of the Township of Marlboro, County of Monmouth and State of New Jersey to provide said software to the Township of Marlboro; and

WHEREAS, funds are available in MCIA Account Number Y-07-55-012-952 and have been certified to by the Chief Financial Officer of the Township of Marlboro; and

WHEREAS, the Township Council desires to approve the purchase of said computer software;

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that authorization is hereby granted to purchase tax collection software from Municipal Software Inc., Nine South Ninth Street, Stroudsburg, PA 18360 under State Contract #A72727 not to exceed \$16,000; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Municipal Software Inc., Stroudsburg, PA
- b. Township Administrator
- c. Township Tax Collector
- d. Township Chief Financial Officer
- e. Jonathan L. Williams, Esq.

RESOLUTION # 2009-459

A RESOLUTION AUTHORIZING THE EXPLORATION AND INVESTIGATION  
OF AN ALTERNATE SITE FOR AFFORDABLE HOUSING IN MARLBORO  
TOWNSHIP AS WELL AS FOR THE EXPENDITURE OF SUMS UP TO THE



AMOUNT OF \$250,000 FROM MARLBORO TOWNSHIP'S AFFORDABLE  
HOUSING TRUST FUND FOR THE PURPOSE OF INVESTIGATING AND  
DETERMINING THE SUITABILITY OF A PROPOSED ALTERNATE SITE

WHEREAS, Marlboro Township petitioned the Council on Affordable Housing ("COAH") for substantive certification of its Housing Element and Fair Share Plan ("Housing Plan") on December 30, 2008; and

WHEREAS, the Housing Plan included and provided for the construction of a 100% affordable project to be constructed by the Ingerman Group on Ticetown Road in Marlboro Township ("the Ingerman Project"); and

WHEREAS, the Housing Plan called for the Ingerman Project to include 176 affordable family rental housing units; and

WHEREAS, the Housing Plan promotes affordable housing pursuant to New Jersey's Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:97-1, et. seq.), as currently codified; and

WHEREAS, Mayor Hornik has taken considerable and extensive time to investigate the possibility of an alternate and better site to the Ticetown Road site in furtherance of Marlboro's best interests and in the interests of promoting affordable housing; and

WHEREAS, Marlboro Township has made application to COAH and sought an extension of time for Marlboro to investigate a potential alternate site to the Ticetown Road site for which said application was granted by COAH such that Marlboro has until January 29, 2010, to identify a potential alternate site to the Ticetown Road site and, if said alternate site is deemed suitable, that Marlboro Township shall then have until March 15, 2010, to re-petition COAH and to amend its Housing Plan to include and substitute the new alternate site for the Ticetown Road site if it is found to be suitable for the construction of affordable housing; and

WHEREAS, Mayor Hornik now seeks to explore and investigate the possibility of an alternate site for the Ingerman Project which would yield the same amount of affordable family rental housing units as the Ticetown Road site; and

WHEREAS, Marlboro Township maintains a housing trust fund which contains funds accumulated over time which are to be used for the purposes of promoting the goals and objectives of

the Fair Housing Act as well as COAH's existing rules and regulations; and

WHEREAS, COAH's rules and regulations along with the provisions of New Jersey's Fair Housing Act permit the Township of Marlboro to expend sums for the purpose of the investigation and exploration of an alternate site for the Ingerman Project; and

WHEREAS, Mayor Hornik believes that it is in the best interests of the Township of Marlboro to investigate and explore a potential alternate site for the Ingerman Project away from the Ticetown site; and

WHEREAS, the Ingerman Group, as a developer of 100% affordable projects has requested that the Township of Marlboro assist it in absorbing and incurring the costs of pre-development investigation and exploration of a potential alternate site to the Ticetown site; and

WHEREAS, the Ingerman Group has requested assistance from the Township of Marlboro in the amount of \$250,000 which shall be applied to pre-development costs incurred in part in the investigation and exploration of the Ticetown Road site as well as at the potential alternate site; and

WHEREAS, Mayor Hornik believes it is in the best interests of the Township of Marlboro and consistent with the public policies of affordable housing for the Township of Marlboro to participate and provide financial assistance to the Ingerman Group to investigate and explore a potential alternate site to the Ticetown site; and

WHEREAS, Mayor Hornik believes that the Township of Marlboro needs to carefully monitor the expenditure and use of the \$250,000 sum therefore, he proposes that a special account be established for the disbursement of these funds and that disbursement to the Ingerman Group will be made upon the presentment of documentation evidencing the proposed expenditure;

NOW THEREFORE BE AND IT IS HEREBY RESOLVED, by Mayor Hornik and the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that they desire to cooperate with and provide financial assistance to the Ingerman Group from the Township's Affordable Housing Trust Fund in an amount up to \$250,000 to cover the costs of pre-development reimbursement and/or expenses incurred by the Ingerman Group for the Ticetown site as well as for a potential alternate site; and

BE IT FURTHER RESOLVED, that Mayor Hornik and the Township Clerk are hereby authorized to sign a memorandum of understanding

with the Ingerman Group, substantially in the form of the attached agreement, that will set a cap of \$250,000 in financial assistance to that entity for the sole and exclusive purpose of investigating and exploring an alternate site for the Ingerman Project as well as reimbursing the Ingerman Group for out of pocket pre-development costs and expenses incurred as to the Ticetown Road site; and

BE IT FURTHER RESOLVED, that a special account shall be established by the Marlboro Township Finance Department which is dedicated to payments in conformity with this Resolution; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Thomas P. Howley, Municipal Housing Liaison
- b. The Ingerman Group
- c. Kenneth W. Biedzynski, COAH Special Counsel
- d. Mayor Jonathan Hornik
- e. Township Administrator
- f. DeCotiis, Fitzpatrick, Cole & Wisler, LLP
- g. Ulrich Steinberg, CFO

At 11:50 PM, Council Vice President LaRocca moved that the meeting go into executive session for reason of discussing litigation. This was seconded by Council President Rosenthal, and as there was no objection, the Clerk was asked to cast one ballot.

#### RESOLUTION # 2009-456

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 17th day of December, 2009 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, Litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned items and that such executive session should take approximately 15 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 12:00 PM, Council Vice President LaRocca moved that the meeting be opened. This was seconded by Councilwoman Tragni, and as there was no objection, the Clerk was asked to cast one ballot.

At 12:05 PM, Council President Rosenthal moved that the meeting be adjourned. This was seconded by Council Vice President LaRocca, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: JANUARY 21, 2010

OFFERED BY: MARDER AYES: 2

SECONDED BY: LA ROCCA NAYS: 0

ABSENT: CANTOR

ABSTAIN: MAZZOLA, METZGER

\_\_\_\_\_  
ALIDA MANCO,  
MUNICIPAL CLERK

\_\_\_\_\_  
FRANK LA ROCCA,  
COUNCIL PRESIDENT